## REMARKS

### I.   Introduction

Claims 10-11 and 14-18 remain pending in the present application. Claim 10 has been amended. In view of the following explanations, it is respectfully submitted that all of the presently pending claims 10-11 and 14-18 are allowable, and reconsideration of the pending claims is respectfully requested.

### II.   Rejection of Claims 10, 11 & 14-18 under 35 U.S.C. § 103(a)

Claims 10, 11 and 14-18 stand rejected under 35 U.S.C. § 103(a) as being obvious in view of the combination of U.S. Patent 5,745,576 ("Abraham") and U.S. Patent 4,797,672 ("Kousa"). Applicants respectfully submit that this rejection should be withdrawn for the following reasons.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, the Examiner must show, *inter alia*, that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references, and that, when so modified or combined, the prior art teaches or suggests all of the claim limitations. M.P.E.P. §2143. In addition, as clearly indicated by the Supreme Court, it is "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed. See KSR Int'l Co. v. Teleflex, Inc., 127 S. Ct. 1727 (2007). To the extent that the Examiner may be relying on the doctrine of inherent disclosure in support of the obviousness rejection, the Examiner must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art." (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Amended claim 10 recites the following:

10. A system for access authorization, comprising:

a base device including a computer, wherein the base device initially transmits a prompt signal within a framework of an initial prompt/reply cycle that is successfully carried out, and wherein the prompt signal is stored in the base device; and

at least one remote control storing the initially transmitted prompt signal from the initial prompt/reply cycle;

wherein, in an access authorization process **during normal system operation subsequent to the previous, initial prompt/reply cycle that is successfully carried out**, the at least one remote control transmits to the base device a code word containing a reply, the reply being formed at least partially as a function of the prompt signal stored in the at least one remote control, wherein the base device receives the code word containing the reply and compares the reply contained in the code word with a required reply, wherein an access is authorized if the reply contained in the code word agrees with the required reply, **and wherein the prompt signal stored in the base device is erased when a number of failed agreements of the reply and the required reply exceeds a specifiable limiting value.**

In the "Response to Arguments" section of the Office Action, "the Examiner points out that Abraham teaches the claimed system, which can be used for access authorization." However, Abraham clearly does not teach or suggest **a system for access authorization** which provides that "in an **access authorization process during normal system operation subsequent to the previous, initial prompt/reply cycle that is successfully carried out**, the at least one remote control transmits to the base device a code word containing a reply, the reply being formed at least partially as a function of the **prompt signal stored in the at least one remote control**," as recited in the present claims; instead, Abraham only discusses the initialization procedure of a cryptographic terminal in a cryptographic system (column 5, lines 10 through 12 and 25 through 26: The **initial key, or a key derived from it, is used only for initialization purposes and not for normal system operation**). Therefore, it is clearly incorrect for the Examiner to contend that "Abraham teaches the claimed system."

In addition to the above, in response to the Applicants' argument presented in the previous Amendment that the <u>motivation to combine the teachings of Abraham and Kousa in the manner asserted by the Examiner is simply not suggested in the prior art or the knowledge generally available in the art</u>, the Examiner merely recites what Abraham and Kousa disclose <u>individually</u>. (See, e.g., "Response to Arguments" section of the Office Action). However, merely reciting the teachings of each applied reference does not satisfy the requirement of identifying "a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed, as articulated by the Supreme Court. See KSR Int'l Co. v. Teleflex, Inc., 127 S. Ct. 1727 (2007). To the extent the Examiner contends that although "Abraham does not disclose that an initial stored prompt from a successful prompt/reply cycle is used to encrypt the authorization information, . . . Kousa discloses that often an encrypted exchange will be preceded by a key exchange to create a session key to use in further authentications," and that the motivation to modify the method/system of Abraham with the key exchange of Kousa is "**to prevent eavesdropping**," (i.e., "[i]t would have been obvious for one of ordinary skill in the art to use key exchange [of Kousa] preceding Abraham to prevent eavesdropping," Office Action, p. 2-3), this alleged motivation is completely inapplicable to the base system of Abraham being modified: Abraham clearly indicates that the object of the invention is to **remedy the prior art risk of compromising the base key in initializing a terminal in a cryptographic system**, (col. 6, l. 36-39), which object is achieved by providing "a method of secure initialization of cryptographic terminals **so that no secret data is transmitted in cleartext form**." (Col. 6, l. 41-43). In the implementation of the method, Abraham indicates the following: a) "[t]he base key . . . is stored in the cryptographic equipment **in a physically secure manner to prevent unauthorized access of the base key**" (col. 6, l. 66 – col. 7, l. 2); b) "[c]ryptographic terminals are initialized with an 'initial terminal key' derived from the base key and the terminal device's serial number" (col. 7, l. 10-12); and c) "[t]he initial terminal key is derived in such a way (using a one way function) that, even knowing the serial number of the terminal and the initial terminal key, **it is not possible to derive the base key**." Given the absolutely secure nature of the method of initialization of the cryptographic terminals disclosed in Abraham, it is simply illogical for the Examiner to contend that potential "eavesdropping" would motivate one of ordinary skill in the art to modify the method of Abraham by using a "key exchange" disclosed in Kousa, particularly since "eavesdropping" will not facilitation derivation of any useful information.

Accordingly, for at least the foregoing reasons, the overall teachings of Abraham and Kousa cannot support the obviousness rejection of claim 10 and its dependent claims 11 and 14-18.

## CONCLUSION

Applicants respectfully submit that all pending claims of the present application are now in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

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